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OFFICE OF PETITIONS

In re Application of
Scherer, et al :
Application No. 10/038,639 :
Filed: 4 January, 2002 :
Attorney Docket No.: 3616.213US01 :

ON PETITION

This is a decision on the petition filed on 25 July, 2005, under 37 C.F.R. §1.48, requesting correction of the inventorship of the application; under 37 C.F.R. §1.183, requesting waiver of the declaration/statement requirement under §1.48; and under 37 C.F.R. §1.47, requesting authority to proceed with prosecution in the absence of a non-signing/unavailable inventor.

For the reasons set forth below the petition:

- under 37 C.F.R. §1.183 is **GRANTED**;
- under 37 C.F.R. §1.48 is **GRANTED**; and
- under 37 C.F.R. §1.47 is **GRANTED**.

BACKGROUND

The instant application was filed on 4 January, 2002.

As averred in the petition of Julie R. Daulton (Reg. No. 36,414) (herein: Petitioner):

- the application was filed with an inventive entity consisting of named co-inventors

Ronald J. Scherer, David Matthew LaCroix and Glenn C. Bolles;

- during prosecution some claims were cancelled, requiring the deletion of Glenn C. Bolles from the inventive entity, and the contribution of Paul W. Bailey (Mr. Bailey) as co-inventor was recognized, requiring his addition to the inventive entity;
- the sole Assignee (supported with a certificate under 37 C.F.R. §3.73(b)) has assented to the alteration/correction of the inventive entity;
- Petitioner's supports allegations of satisfaction of the requirements of 37 C.F.R. §1.47 and attempted satisfaction of the requirements of 37 C.F.R. §1.48 with copies of referenced documents (e.g., transmittal letter); and
- Petitioner avers that Mr. Bailey has not responded to requests to enter provide a statement/declaration as required by 37 C.F.R. §1.48 or sign the corrected oath/declaration as required by 37 C.F.R. §1.63—thus Petitioner's averment of the necessity for waiver under 37 C.F.R. §1.183 of a requirement of 37 C.F.R. §1.48 and the submission to prosecution of the instant application under 37 C.F.R. §1.47 in the absence of the signature of a co-inventor, respectively.

As a result of papers filed on 25 July, 2005, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship; waiver under 37 C.F.R. §1.183 of a requirement of 37 C.F.R. §1.48 is proper in the premises; and, accordingly, this application has been corrected in compliance with 37 C.F.R. §1.48(a)(2).

The inventorship of this application has been changed by:

- the deletion of Glenn C. Bolles of the USA; and
- the inclusion of Paul W. Bailey of the USA.

Further, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

The application will be released to the forwarded to the Technology Center for further processing in due course after the change of inventorship is incorporated into the records of the Office, transmittal of a corrected filing receipt, and correction of the file jacket/PTO PALM data to reflect the inventorship as corrected.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-321459.



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Office of Petitions